United Nations A/57/693

General Assembly

Distr.: General
23 December 2002

Original: English

Fifty-seventh session
Agenda item 104
Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions

Letter dated 21 November 2002 from the Permanent Representatives of Norway and Switzerland to the United Nations addressed to the President of the General Assembly

Upon instructions from our Governments, we have the honour to transmit herewith the document entitled "Declaration of The Hague on the Future of Refugee and Migration Policy" (see annex).

We would appreciate it if the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 104.

(*Signed*) Jenö C. A. **Staehelin**
Ambassador
Permanent Representative of Switzerland
to the United Nations

(*Signed*) Ole Peter **Kolby**
Ambassador
Permanent Representative of Norway
to the United Nations

02-75660 (E) 080103

Annex to the letter dated 21 November 2002 from the Permanent Representatives of Norway and Switzerland to the United Nations addressed to the President of the General Assembly

Society for International Development/Netherlands Chapter

– Project on the Future of Asylum and Migration –

DECLARATION of THE HAGUE

on

the FUTURE of REFUGEE and MIGRATION POLICY

PREAMBLE, PRINCIPLES, COMMENTARY

THE PREAMBLE

We, a group of some 500 persons with different backgrounds from all parts of the world, were brought together in our individual capacities by the Netherlands Chapter of the Society for International Development to think creatively about the future of refugee and migration policy. We come from governments, from supranational bodies, intergovernmental organisations, academia, faith groups and civil society organisations. Some of us know the direct personal experience of flight, displacement or migration; others have a longstanding commitment to good governance at local, national, regional or interregional levels. We reflected on the nature and scale of forced and voluntary migration and the potential of new responses. We have a belief in a just world where vision and action go hand in hand and where refugees and migrants lie at the heart of our common concern.

We believe that refugees and migrants matter enormously to the international community. Their future is an essential element in the notion of peaceful international cooperation, stability and economic security. Forced and voluntary movements of people are very different but nevertheless related phenomena. Concern for both has to be located within the context of economic and political globalisation, with all its potential for greater human development and prosperity on the one hand or alienation, disempowerment, impoverishment and polarisation on the other.

We believe that migration is a normal phenomenon which can contribute positively to economic and social development, cultural richness and diversity. It is however intolerable that the world continues to witness the plight of persons defenceless against human rights violations, persecution, torture and brutality; grave weaknesses in the protection of millions of internally displaced persons; intense pressures on the institution of asylum, and the exclusion of a major group of refugees from access to international protection.

We believe that now is the time for a major change of focus. The patterns of migration are changing; the potential for international cooperation is increasing; demographic realities in the world are shifting; globalisation offers possibilities to manage migration more productively; the advance of human rights and democratic governance opens up new perspectives.

We propose in this Declaration a new approach. Our starting point is to re-think the long term interests of states and societies as well as the aspirations and needs of people on the move. This Declaration offers a way ahead to address the challenges of the future. With good international cooperation, managed migration offers great potential, while one of the international community's major goals for the future should be to make the right and the option of remaining in one's own country viable for all. International refugee protection is a vital human rights achievement, but the coming decades require renewed effort to advance internationally agreed human rights norms, to tackle conflict prevention and the resolution of protracted conflicts.

We call on the international community to respond creatively to these challenges. The time is right, and with a high level of political leadership our world can progress towards peaceful co-existence, economic prosperity and the realisation of the aspirations of all its people.

THE PRINCIPLES

1. The Responsibility of States

Refugee movements and migration in a globalising world are key issues for the coming decades. While the primary responsibility for asylum and migration policy lies with states, no state can any longer act alone. States are called upon to establish policies for the management of population flows and to cooperate internationally. Their obligations and responsibilities derive from a fundamental respect for human life and dignity as established in international human rights, humanitarian law and refugee law. The universal standards apply to refugees and migrants as to anyone else.

2. Focus on a New Dialogue

The starting point for future refugee and migration policy is the shared interests of all relevant actors involved. It is time to change the priorities of existing consultation processes, with a clear focus on common interests and a direct dialogue among states of origin, transit and destination. Best solutions can be worked out when refugees, other displaced persons, migrants, civil society, economic actors and governments are involved from the outset.

3. Regional Approaches

One proven way to address the growing challenges of refugee movements and international migration is through strong regional cooperation. Within a global framework, regional cooperation arrangements can advance human rights and dignity, solidarity and the sharing of responsibility. Regional approaches allow for more effective responses to and governance of population movements.

4. Migration Management

Successful migration policies balance humanitarian obligations and effective management. A rational strategy will take into account the needs of countries of origin, transit and destination as well as the aspirations of the migrants involved. It respects the investments and contributions made by migrants and the demographic, economic, labour and cultural needs of societies. Migration Management is a complex process which goes beyond punitive measures and instruments of control. It is essential to understand migration as a normal fact of life for individuals, families, communities and states.

5. Mobility and Security

Population movements have raised security concerns in the past and do even more so today. Calm and reasoned deliberation is required as there is no inherent inconsistency between respect for human rights and ensuring security in the international framework. By addressing the legitimate needs for security and the welfare of their citizens, states can strengthen public confidence and continue to contribute constructively to migration and humanitarian programmes.

6. Orderly Migration

Coherent orderly migration programmes are key instruments in a new approach to migration. States need to construct a national or international policy regime indicating their interests and intentions with respect to migration. Such a regime will in addition strengthen public confidence and enhance states' willingness to respond to humanitarian crises. Transparent arrangements will clarify the rights and obligations of migrants. Communicated in a clear and open way such programmes will contribute to channel migration in a predictable manner. They will reduce the constraints and costs of unauthorised migration and help to break the power of organised human trafficking and smuggling.

7. Irregular Migration

Irregular migration is often dangerous for the individuals concerned as they have little or no legal protection. As states re-direct unauthorised migrants towards orderly migration systems, they can simultaneously cooperate to discourage disorderly migration. For unauthorised migrants who meet specified humanitarian criteria, access to legal procedures, including regularisation, should be considered. For others, access to assisted return programmes should be available, with states living up to their obligations to receive returnees on a non-discriminatory basis. Both approaches are important elements in a coherent policy and acknowledge that irregular migrants continue to benefit from fundamental human rights. Collective action at all levels against the industry of organised human trafficking and smuggling is best pursued under the 2000 UN Convention against Trans-national Organised Crime and its supplementing Protocols on Trafficking and Smuggling which should enter into force as a matter of urgency.

8. Refugee Protection and Asylum

The right to seek and enjoy asylum from persecution has universal application. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol remain the cornerstones of shared responsibility for the international protection of refugees; they merit ratification and implementation by those states which have not yet done so. The two priority challenges for the international community are to extend the reach of refugee protection by translating into action the principles of international human rights law, humanitarian law and refugee law; and to address comprehensively the need for durable solutions through voluntary repatriation, local integration in countries of first asylum or resettlement in third countries. The political, financial and humanitarian costs of not finding durable solutions for the problems of refugees are much greater; achieving them is one of the best investments in global peace and stability.

9. Internally Displaced Persons

The growing millions of internally displaced persons in the world face lives of extreme vulnerability and risk. While they remain the prime responsibility of their states, their needs often require the specialised assistance and protection of the international community, especially when their own government is the chief abuser. The rights and protections afforded to internally displaced persons by human rights law and international humanitarian law have been usefully brought together in the UN Guiding Principles on Internal Displacement.

10. Migration and Development

Economic disparities between and within countries are one of the major causes of migration. Migration policy therefore must go hand in hand with development policies, the combating of disease and the eradication of poverty and illiteracy. A greater commitment is required to comprehensive development strategies which are sustainable, people centred and include an emphasis on education, health and political participation. A workable international and regional framework on aid, trade, development and investment must prioritise a better allocation of resources to create opportunities for all and mitigate the negative effects of brain drain.

11. Conflict and Conflict Prevention

Gross violations of human rights and international humanitarian law, often exacerbated by violent conflicts, remain major causes of forced displacement. The international community has a particular responsibility to develop strategies which prevent their destructive potential and the resulting internal displacement and refugee flows. In this respect the effective control of arms and of the financial flows which fuel conflicts are important instruments to reinforce humanitarian actions to protect and assist

17. Children and Families

The disruption of families is a common consequence of migration and displacement. Children are the casualties of conflict. UN peace-keeping activities merit greater international support. When established, the International Criminal Court will increasingly bring to justice those responsible for genocide, crimes against humanity and war crimes.

12. Post-conflict Reconstruction

There is a need for new, inclusive, bottom-up approaches to post-conflict situations. Appropriate resources need to be made available expeditiously to re-establish public order and the rule of law and to rebuild basic infrastructure. Involvement by the local population, displaced persons and returning refugees is a key factor for successful reconstruction. The ratification and implementation of the 1997 Anti-Personnel Mines Convention is a first step to allow people to return in safety. A special effort should be undertaken to ensure that child soldiers are protected and rehabilitated.

13. Focus on the Potentials

Refugees and migrants have skills, knowledge, experience and strong aspirations for a better life. These must be harnessed to productive and enriching endeavours, not wasted by exclusion from the normal life of the community in which they live. Access to the labour market, education, health and other public resources are important incentives to develop their own capabilities. Such a policy, empowering refugees and migrants to lead fulfilling lives, also has positive effects on the receiving societies in terms of enhancing individual autonomy, reducing social costs and increasing public acceptance of the value of refugees and migration.

14. Integration and Social Inclusion

Early integration, based on equal treatment and the prohibition of discrimination, is in the best interests of all, irrespective of the long-term options for refugees and migrants and their right to return to their country of origin. Work, training, family reunion, education for children and access to health and other public services are key factors for successful integration. Critical to social inclusion as a two-way process is the involvement of the local population and the respect for their needs as part of an inclusive national strategy based on unity and diversity. Changes to traditional patterns of migration caused by new communication technologies and increased mobility require states to develop more flexible legal and social regimes for integration and reintegration.

15. Participation and Responsibilities

In many countries, refugees and migrants constitute an important part of the population. Their early and active participation in decisions concerning their lives is essential. Promoted by effective communication strategies, a well-established dialogue with authorities and civil society at all levels will ensure mutual respect and understanding and help all concerned to live up to their responsibilities. Fundamental to the social cohesion is that refugees and migrants, as everyone else, respect the laws and regulations of the host country.

16. Refugee and Migrant Women

Greater focus is required on the particular needs of refugee and migrant women particularly as the patterns of migratory movements and displacement change. Very often women constitute a significant proportion of the respective populations. They bear a heavy burden to ensure the protection and survival of their families. Protection policies need to be more sensitive to their needs. State and local authorities should acknowledge their special potential to facilitate integration and preserve cultural traditions.

especially vulnerable in all situations of migration be they forced or voluntary. The 1989 Convention on the Rights of the Child provides the universal framework for the protection and assistance of children based on the principle of the best interests of the child. Policies relating to their specific needs, the dynamic of their development and their potential to adapt to new environments are key not only to facing the difficulties of migration but also to the creation of long term social stability.

18. The Role of the Corporate Sector

The corporate sector is playing an increasingly important international role which is reflected in the new dimensions to corporate social responsibility. Business leaders are called upon to contribute to respect for human rights including basic labour law standards and environmental protection. They need to avoid situations where their activities fuel conflicts, and they can play a useful role in supporting local civil society. In post-conflict situations the corporate sector has immense capacity to contribute to the reconstruction of the social, economic and cultural infrastructure. In addition, business can actively ensure the inclusion into the labour force of refugees and migrants in host countries and thereby reinforce the integration process.

19. Leadership, Education and Information

Major efforts in public awareness, research, information and education are needed to help societies deal with refugees and migration. Political, religious and business leaders, as well as the media and others responsible for shaping public opinion, carry a special responsibility to counter racism, xenophobia and fear and to promote a culture of mutual respect and inclusiveness. They all have the potential and the responsibility to play an important peace-building and reconciling role.

20. Implementation of Legal Instruments

Powerful instruments of human rights, international humanitarian law and refugee law already exist to protect refugees, and to a lesser extent migrants. The priority for the future is to ensure their effective implementation. A major advance would be for states to openly discuss their difficulties with applying existing laws, while committing themselves to develop the necessary capacity to meet agreed international standards. This will allow for more states to sign and ratify existing treaties and arrive at a wider consensus on outstanding areas of concern which have not yet been resolved.

21. Institutional Arrangements

The scope of today's refugee and migratory movements challenges existing institutions in terms of their mandates, resources and effectiveness. The responsible international institutions require a more coherent, dependable and generous funding base. Relevant national authorities, law enforcement agencies, intergovernmental and non-governmental organisations need to be adequately staffed, well trained and better coordinated. It is time for the UN Secretary General to launch a review of the institutional arrangements for population movements at the global and regional level. Such an institutional review will enhance the dialogue between states based upon a notion of common interest. A renewed institutional framework will contribute to positive economic, social and cultural development, human security, health and welfare, and the effective protection of refugees, other persons at risk and migrants.

THE COMMENTARY

1. The Responsibility of States

Refugee movements and migration are nothing new. They have deep historical roots. Migration flows have intensified in recent times as one of the important impacts of globalisation. The demand for skills and labour and the search for jobs and opportunities result in unprecedented movements of people in many parts of the world. Additionally, people move because of serious economic, political or social injustice. Forced displacement is the consequence of continued instability in many regions of the world and of violations of human rights, of fundamental freedoms and of international humanitarian law, often on a massive scale.

The challenges raised by today's movements of migrants, refugees, asylum-seekers and other displaced persons require international responses, drawing on the combined responsibilities and capacities of national, regional and global actors. The world is increasingly interdependent; the policies and practices of one State with respect to population movements necessarily affect other States and regions.

The shared responsibilities that arise concern all States in the chain of movements and displacements, both between southern and northern countries and between countries within a particular region. Of crucial importance is the responsibility of the countries of origin to address the root causes of forced displacement and migration flows, whether these relate to respect for human rights standards, economic reform or the creation of jobs. The intention is that none of their people need to migrate in order to survive. Positive actions to receive back and reintegrate their returning citizens will reinforce the sense of shared State responsibility.

In order to build more orderly and just refugee and migration regimes, receiving countries will have to move towards more planned approaches and transparent policies. New policies will need to serve legitimate national interests. They will also be determined by the growing obligations of States to meet universal standards in international human rights, in international humanitarian law and in refugee law.

2. Focus on a New Dialogue

It is becoming more widely understood that refugee and migration policies are a matter for a broad range of stakeholders – principally the refugees and migrants themselves, but also governments, local and international non-governmental organisations (NGOs), multilateral bodies, the corporate business sector and civil society. By 'civil society' we mean any entity, institution or organisation outside the government or economic/financial sector.

It is not an easy task to build a consensus between actors with different interests and degrees of influence. Our conviction is that it will only be possible to clarify common ends and propose ways of realising them when there is a more concerted dialogue between all the relevant stakeholders. North should talk with South. Rich with poor. Developing with developed. At present this dialogue is manifestly inadequate; discussion is too often among the like-minded, or groups talk past or over each other.

The role of international organisations remains central to the notion of planned global approaches. At the same time there is great potential for new forms of dialogue whereby States, NGOs and the corporate business sector can develop creative new partnerships.

The heart of this dialogue is international 'best practice' standards. For guidance on what these standards are we can look to the humanitarian and human rights organisations and to specialist multilateral agencies such as the United Nations High Commissioner for Refugees (UNHCR) and the International Organisation for Migration (IOM).

3. Regional Approaches

Up until now primary responsibility for refugee and migration policy has largely fallen on sovereign States. In future the principle of solidarity requires that other multilateral structures, both regional and international, will play a more prominent role.

The way forward is for refugee and migration policy to assume a greater priority on the agenda of formal regional and sub-regional structures. These include such bodies as: the Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants (APC), the Asian Pacific Economic Cooperation (APEC), the Association of South East Asian Nations (ASEAN), the Commonwealth of Independent States (CIS), the Central European Free Trade Agreement (CEFTA), the Common Market for Eastern and Southern Africa (COMESA), the Council of Europe, the Dakar Declaration Group, the Economic Community of West African States (ECOWAS), the European Free Trade Association (EFTA), the European Union (EU), the Lima South American Process, the Manila Process, the Common Market of the South (MERCOSUR or COMISEC, including Argentina, Brazil, Paraguay and Uruguay), the Migration Dialogue for Southern Africa (MIDSA), the North American Free Trade Agreement (NAFTA), the New Partnership for Africa's Development (NEPAD), the Organisation for Security and Cooperation in Europe (OSCE), the Puebla Process, the Southern African Development Community (SADC) and the South Asian Association for Regional Cooperation (SAARC). The IOM has developed an innovative programme 'Migration for Development in Africa' (MIDA) to foster the contribution of migrant diasporas to the development of the countries of origin.

Beyond these formal regional and sub-regional structures there is great creative potential in informal and new networks or platforms for international and regional cooperation on refugee and migration matters such as the Bangkok Declaration Group, the Berne Initiative, the Inter-Governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia (IGC), the International Centre for Migration Policy Development (ICMPD – 'the Budapest process'), the International Migration Policy Programme (IMP – which includes the UN Population Fund UNFFA, the UN Institute for Training and Research UNITAR, the International Organisation for Migration IOM and the International Labour Organisation ILO), and the IOM's own International Migration Policy Dialogue.

We refer to the importance of these groupings because they offer an important analysis of refugee and migration issues within a distinct geographical zone. Our longer term vision however is that these perspectives are integrated into a more global concept of common interest. Both approaches can serve to manage migration more effectively, to reduce the root causes of forced displacement and encourage responsibility sharing between States.

4. Migration Management

Under the free movement of people concept, migrants have the right to leave their country of origin; their ability to enter legally into another country, however, is governed and regulated by each receiving country's national legislation relating to the admission of foreigners.

A comprehensive, planned approach is needed for the management of migration flows. States have the responsibility to balance the rights and interests of migrants with the interests of their own nationals.

Bearing in mind that a single country can – for different groups of migrants – simultaneously be a country of origin, transit and destination, these strategies involve cooperation and dialogue between all countries involved in the process of migration. Migration management needs to be transparent and

participatory and developed within the framework of international law. To add credibility to their work, policy makers will need to consult and inform local receiving populations as well as the migrants themselves.

It is the realisation that migration cannot be managed effectively by unilateral action alone which lies behind initiatives to strengthen regional frameworks for cooperation in some parts of the world.

The great advantage in successful migration management strategies is that they provide policies to strengthen legal migration by labour migrants and their families, thereby reducing the incentives for unauthorised migration, smuggling and trafficking. The comprehensive approach will also include integrated policies to deal with the root causes of migration, including poverty, lack of opportunity and economic under-development.

5. Mobility and Security

In raising the relationship between mobility and threats to human and state security we want to acknowledge that events of an international criminal nature can have very negative effects on the public perception of asylum seeking and migration. In many other circumstances, there can be genuine social stresses associated with refugee and migration movements which should be openly dealt with and faced up to.

When States feel threatened by external security concerns, the views of significant sectors of society become highly polarised. In such a situation tolerance and respect for important established human rights standards come under pressure with the risk that xenophobia, racism and intolerance will grow.

Effective security arrangements are not only legitimate but an obligation of States towards all those on their territory. However, it cannot be acceptable if such security arrangements undermine access to asylum and damage acceptable standards of protection to refugees and migrants under international human rights norms.

The way ahead is to develop more orderly and transparent systems to manage migration and to promote more dynamic and comprehensive responses to humanitarian crises, including longstanding unresolved conflicts. The benefit of this approach is that it will maintain the space to protect the rights of refugees and migrants and also provide for the legitimate security interests of receiving countries.

6. Orderly Migration

In a disorderly world, all too often characterised by the exploitation of migrants, it is highly desirable to seek to achieve more orderly migration. When constructing their national policy regimes States should be explicit about their intentions with respect to legal immigration and the rights and responsibilities of immigrants. These intentions should be widely communicated to the public at large. Within this more open approach policies can be developed at regional and global levels.

National and international migration policies need to be adjusted to respond to demographic trends, and changes in employment and unemployment patterns as well as skill shortages.

The way forward lies with policies which strengthen the notion of mutual benefit between sending and receiving countries. Legal and orderly migration, based on interdependence and reciprocity, will positively contribute to peace and development in a number of significant ways, including the linkage of countries and their entrepreneurial citizens to the global community and the promotion of global learning and tolerance.

7. Irregular Migration

It is worth recalling that in most cases, migration, forced or otherwise, is a rational human response either to deal with an intolerable situation or to fulfil aspirations for a better life. However irregular migration raises deep concern both because of the dangers faced by vulnerable migrants themselves and because of its destabilising effects on countries of origin, transit and destination. The notion of unauthorised or 'irregular' migration refers to people who move without appropriate documentation, indeed illegally, often facilitated by unscrupulous agents, criminal networks, smuggling and trafficking operations, all of which exploit them. Unauthorised migration can also be dangerous because of the methods of travel used by the traffickers and the oppressive situation in which migrants frequently find themselves in the country of transit and destination.

For those who enter a State illegally in order to seek asylum, it is important to remember that the 1951 Convention relating to the Status of Refugees explicitly provides that refugees are not to be punished for their unauthorised entry. Indeed, smuggling is often the only means refugees have to leave their countries and enter a safe country, without being detected and risking deportation and further persecution.

It is the interest both of migrants and of States that the international community moves towards more orderly legal migration. This can best be done through interstate cooperation to discourage or prevent disorderly migration, while at the same time cooperating to address the root causes of disruptive or irregular migration and to establish positive legal and formal migration mechanisms as alternatives.

The return home of rejected asylum seekers and persons refused legal residence – in conditions of safety and dignity – needs to be expeditious, planned and humane. A dignified approach to this difficult human problem would be enhanced by supporting the process of return with reintegration assistance and by the positive action of countries of origin to facilitate the organised return of their nationals.

8. Refugee Protection and Asylum

States' policy for orderly migration regimes must not in any way prejudice the rights of asylum seekers and refugees to access to protection and assistance measures. Refugees must receive unhindered passage across States until their safety and protection are assured, and States must commit to such access. As the power of traffickers is broken through greater international cooperation, so friendly governments, international organisations and NGOs must step forward, where necessary, to organise safe escape routes for refugees.

The 1993 UN World Conference on Human Rights in Vienna, Austria, reaffirmed that everyone, without distinction of any kind, is entitled to the right to seek and to enjoy in other countries asylum from persecution, as well as the right to return to their own country. Equally, the complexities of the global refugee crisis were recognised, requiring a renewed commitment to relevant international instruments and international solidarity, in the spirit of responsibility sharing.

The December 2001 Ministerial Meeting of States Parties to the 1951 Convention relating to the Status of Refugees, in Geneva, Switzerland, followed a year of extensive examination of refugee protection measures in UNHCR's 'Global Consultations' process. This meeting concluded with a renewed commitment by many governments to the aims and intentions of the 1951 Convention relating to the Status of Refugees. Among its outcomes the Global Consultations established an Action Group on Asylum and Migration (AGAMI) to enhance cooperation between UNHCR and IOM in contributing to finding solutions to asylum and migration issues.

More and more States appreciate that finding durable solutions for refugees is an excellent investment in global peace, security and stability. To that end political, financial and practical support to the comprehensive approach led by the UNHCR would be the concrete test of the international community's declaration of good intention.

9. Internally Displaced Persons

There are at least 25 million internally displaced persons (IDPs) at present, most of whom are women and children. At present, the level of assistance available for their protection is totally insufficient. Many IDPs are inaccessible or indeed forgotten.

The problems that IDPs face are in many respects the same as for refugees, whom they far outnumber. The principal difference between the two is that IDPs have not crossed a national frontier and from a strictly legal point of view remain the formal responsibility of their own State. The critical issue is that, unlike for refugees, there is as yet no clear international mandate for protecting and assisting IDPs.

In many situations IDPs find themselves living among already poor and deprived local populations. Faced with this complex reality there is not one settled view among humanitarian organisations and the international community as to whether IDPs should be targeted as a distinct group or whether they would sufficiently benefit from policies which address vulnerable populations in general.

Nevertheless, the international community, including UN agencies, is moving to assume responsibilities in providing both a more explicit mandate and adequate resources to respond to the many protection concerns of IDPs.

While IDPs are not specifically covered by international conventions, they are protected by human rights law and, if they are in a state experiencing an armed conflict, by international humanitarian law. The rights and protections afforded to IDPs by these binding bodies of law have been usefully brought together in the UN Guiding Principles on Internal Displacement.

10. Migration and Development

There is deepening and widening inequality in income and opportunities within nations and between the few advanced economies and the world at large. Recent demographic studies reveal an absolute increase in the numbers of people enduring poverty and extreme hardship, which inevitably adds to the pressures for people to migrate elsewhere.

The process of globalisation is introducing new dimensions in the labour market, in particular the demand for highly skilled workers which raises the considerable challenge of brain drain from poor to rich countries. Advanced countries have adopted migration policies for this very purpose. As a consequence, there is significant migration of skilled people to advanced economies. They send money back to their relatives, as do most migrants be they legal or illegal, skilled, less skilled or even non-skilled. Employment in countries of destination results in the generation of billions of dollars in remittances annually, far exceeding official development assistance.

Skilled migrants who have settled in other countries, especially the more advanced economies, are to be encouraged to share their knowledge and other resources for the development of their country of origin. Many examples exist of successful cooperation and networks between migrants, such as scientists and technologists, in the interest of the countries they have left.

In the long term the issue of migration needs to be placed at the heart of development strategies. In the next decade a major goal for the international community is to ensure that no person is ever forced to migrate simply to survive. The international community has a chance to reduce the pressures to emigrate through more targeted development and financial assistance aimed at substantially raising standards of living – including health, education and employment opportunities.

In the short term international assistance, including measures in the form of training, scholarships and other educational assistance, can help to create an economic and social environment that makes use of the full potential of skills which people already have and which contributes to the wealth of the country.

11. Conflict and Conflict Prevention

Major forced migration movements take place because of civil war and ongoing armed conflicts, extreme violence, occupations, incursions and invasions. Prolonged conflicts in many parts of the world remain unresolved for years on end and often do not receive the international attention that they should. In recent years the nature of armed conflicts has changed. Since the end of the 1980s, there has been a substantial increase in conflicts within States rather than between them, and the vast majority of casualties of these conflicts are now civilians. The conflicts include both State and non-State actors. International humanitarian law applies to both. They involve battles for control of resources, and struggles between competing ethnic and religious identities, the effects of which are exacerbated where there is poverty and marginalisation. This change in the nature of conflict is generating immense pressures on governmental systems in many parts of the world and is gravely undermining their policies of peaceful and sustainable development. A number of critical contemporary conflicts are characterised by the unregulated trade in arms and precious commodities such as oil and gems, often exploited by disreputable business interests. Whatever the causes of conflict it is evident that the early warning systems available to the international community need improvement and the political will to act speedily and effectively.

Conflict prevention is a responsibility of sovereign States and of the international community. We raise this issue so as to encourage not only traditional diplomacy, but also the strengthening of democratic governance as well as innovative approaches to peace making and confidence building by civil society. All disputes are best resolved through arbitration and democratic means.

The existence of the International Criminal Court (ICC) is a new factor to be taken into account by those who intend to embark on conflict or engage in gross violations of human rights or humanitarian law. The ICC can challenge impunity for international crimes related to conflict, and thereby contribute to the restoration of justice, which is essential to the process of post-conflict reconstruction. The more States that support the Court the greater its impact will be.

12. Post-conflict Reconstruction

One of the most complicated challenges in the field of post-conflict reconstruction is how to bridge the gap between emergency relief and long-term development when a conflict is over, or at least when hostilities have ceased. The fate of people displaced by conflicts – be they refugees or IDPs – depends critically on the decisions taken on the priorities for reconstruction.

In the interest of sustainable peace and stability the international community has a responsibility to seek immediately to re-establish the rule of law and participatory government. Local sources of ideas on democratic process and capacity building will prove vital in building a durable and just democracy. The next priority is to assist over the long term in reconstructing institutions and providing economic aid and other confidence-building measures. Without effective reconstruction of this kind refugees and IDPs will not gain the confidence to return to their homes and other parts of the same population may migrate elsewhere in search for a better life.

The over hasty return of refugees from their countries of asylum will only worsen social pressures if sustainable peace and stability have not been restored. The widely shared principle of return in safety and dignity offers far stronger guarantees for the successful reintegration of refugees and the reconstruction of their countries of origin.

The role of children in conflicts, whether as victims or as soldiers, is particularly tragic. The 1996 Gracia Machel Report entitled 'Impact of Armed Conflict on Children', commissioned by the UN,

describes the effects of armed conflict on children, emphasising the particular vulnerability of children when they are forced to flee from armed conflicts. In this regard, the 2000 Optional Protocol to the 1989 Convention on the Rights of the Child on the Involvement of Children in Armed Conflict is a very welcome development, and should be acceded to and respected by States throughout the world.

13. Focus on the Potentials

Migration policies rarely consider the potential which refugees and migrants bring with them. Too often these policies stress restrictions and obstacles for refugees and migrants. Restrictive measures tend to de-motivate people who then lose their capacity to look after themselves. They are considered, and indeed can become, a burden for receiving societies. Similarly migrants very often cannot develop their potential to benefit themselves and their host society.

By leaving their home refugees and migrants make a difficult choice. They are almost always highly motivated by their aspirations for a better life. This energy can be used or wasted. It certainly is in the best interest of all to build on the resources which refugees and migrants have in order to strengthen their capacities.

A change of emphasis will transform the debate on refugees and migration if we acknowledge that refugees and migrants themselves possess great potential, and their experience and skills can be of great importance for the socio-economic development of host countries. Therefore, it is time for an innovative approach which genuinely empowers refugees and migrants. Beyond the reduction in social welfare costs the advantages of this empowerment are obvious for the host countries' social and economic development. In addition there will be a positive impact for their countries of origin both when they are living abroad through remittances, and if they choose to return. The central notion we wish to advance here is 'Co-development' which means developing relationships between refugees and migrants and the host societies to their mutual advantage.

To counteract populism, racism and xenophobic reactions governments and other actors like churches, community leaders, youth groups, women's associations and members of law enforcement agencies must ensure that effective anti-discrimination legislation and measures are in place. Political leaders and the media have a crucial role to play in promoting the positive aspects of the empowerment of refugees and migrants, and new efforts will need to be made to raise public awareness of their entrepreneurial energy and the potential contribution they make to build a just society.

14. Integration and Social Inclusion

By integration we mean developing equal opportunities for all while respecting the values of cultural, linguistic and national identities and meeting all the duties and obligations involved in membership of the host society.

Programmes for promoting integration and social inclusion need to be based on the principle of non-discrimination. Integration does not mean 'assimilation' and there should be recognition of the value of diversity and multiculturalism in societies.

An early integration of refugees and migrants is in the best interest of all and particularly of the receiving society. Regardless how long they will stay, refugees and migrants should be offered the opportunity and be expected to care for their own lives and to develop the necessary skills to live independently in the new environment. The ability to communicate is of paramount importance. Even if a refugee has a reasonable prospect of an eventual return home they should still be offered opportunities for integration so as to realise their full potential.

Successful integration benefits refugees, migrants and host societies. Unsuccessful integration, conversely, may lead to marginalisation, alienation, discrimination and 'ghetto-isation' particularly in

large metropolitan areas. No one in a host receiving society or refugee/migrant community can possibly benefit from such a situation, except those who seek to exploit such tensions for a particular political or ideological interest.

The integration of refugees and migrants from a variety of backgrounds challenges social policy at all levels. While governments should take the lead, the integration process requires the engagement of local and regional authorities, NGOs, religious bodies, business and trade unions, and refugee and migrants associations.

15. Participation and Responsibilities

We deliberately raise the issue of participation and responsibilities, because despite good intentions in many countries receiving refugees and migrants, experience suggests not enough attention is paid to this issue. It goes without saying that States have a responsibility to ensure the protection of their citizens and others within their territories, and that refugees as well as migrants have a duty to respect the laws of the States they enter.

Refugees and migrants form part of the developing multicultural landscape of their host society. Their social and economic interests become more closely intertwined with the local population and therefore need to be expressed in the dialogue with the host population.

There are many reasons given for the weakness of this dialogue: cultural and communication barriers are one; lack of interest, or the fear that the dialogue could be difficult are others. Very often the dialogue and the offer for participation come very late or only in times of social crisis.

The risks of failure in the dialogue are obvious: marginalisation, alienation, discrimination, subcultures existing side by side but never engaging with each other, a kind of social 'apartheid', the inability to benefit from social and health services in the host society.

Dialogue and participation are the answer to this issue; this means a continuing process of exchange with refugee and migrant communities as well as the authorities at the local, regional or national level as appropriate. The aim of this dialogue is to ensure a full understanding on all sides of the complex of rights and responsibilities, laws and regulations, which respect differences and make for healthy, social and cultural cohesion.

16. Refugee and Migrant Women

The number and role of women involved in refugee and migrant movements in the world is all too little known or acknowledged. Of the 50 million refugees and IDPs in the world some 80% are women and children. The majority of trafficked people are women, especially those abused in the world's sex industries, mainly coming from South Asia, South East Asia and some of the nations of the Commonwealth of Independent States (CIS). It is further estimated that 40% of all other migrants are women.

Some 170 countries are party to the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Other important Guidelines, particularly those produced by the UNHCR, IOM and ILO, present a solid framework for the protection of refugee and migrant women.

The traditional one-dimensional view of the 'vulnerable woman victim' is now redundant and must give way to greater gender sensitivity. This applies to all aspects of dealing with refugee and migrant women, in particular issues relating to the security of women. The specifics of their cases in refugee status determination require special attention in national and international asylum policies.

A greater recognition of the role of women in future refugee and migration policy will draw on their potential in strengthening the process of integration and in contributing to processes of reconciliation, peace-making and the building of bridges between cultures and communities. A valuable new development is the UN Security Council's support for the greater inclusion of women in major negotiations on peace and resettling uprooted populations.

17. Children and Families

Despite the lack of comprehensive data, it is estimated that refugee children, including adolescents under the age of 18, constitute 45% of refugee populations world wide. A similar percentage is estimated for migrant children.

The 1989 Convention on the Rights of the Child, to which all but two States are party, presents a solid basis for the protection of refugee and migrant children, emphasising as it does that all actions supporting such children must be based on the 'best interest' of the child.

It goes without saying that the fundamental principle of family unity must be respected as well as the need to promote measures for tracing family members. Forced displacement often causes the separation of families. Refugee children in particular can suffer deeply from the absence of the protection, physical care and emotional well being of the family group. They often face sexual exploitation, abuse and violence, detention and military recruitment. Their educational needs may be unmet and their documentation and registration pose particular challenges. It may not be overlooked that children often need special counselling to assist them in dealing with trauma they have experienced.

A phenomenon too little recognised is the arrival in asylum countries of former street children. These children, already often brutalised and damaged by their experiences, are made even more vulnerable through the actions of smugglers and traffickers.

18. The Role of the Corporate Sector

In recent years, the focus on the behaviour of the corporate sector has intensified due to the expanded interest and scrutiny of human rights organisations, the media and ethical investment organisations. Much of this growing interest derives from the damaging role some corporations have played in exacerbating conflict leading to forced displacement. The most notorious examples relate to the illicit sales of arms, diamonds and oil. We are urging greater attention to this issue since without doubt progress could be made in avoiding forced displacements by curtailing those business activities which sustain conflict rather than resolve it.

On the more positive side, 'corporate social responsibility' is very much on the international agenda. Many businesses today realise their reputation is not the only driver for corporate social responsibility. They are becoming more proactive, supporting the fulfilment of economic, social and cultural rights, realising that apart from reputation, they have an interest in the creation of stable and well-functioning new markets. This is why parts of the corporate sector have developed 'self-regulation' tools, including the adoption of industry-based Codes of Conduct. The key challenge is their implementation.

In relation to refugees and human rights a growing number of business leaders accept that their businesses, as social actors, are obliged to respect the 1948 UN Universal Declaration of Human Rights. This means that legitimate businesses have not only an ethical but also a clear commercial interest in a world without conflict and human rights violations. The challenge for them is to decide how far they are prepared to use their corporate power and influence in the prevention of conflict as well as in the process of post-conflict reconstruction.

In relation to migration, corporations have a specific interest. They benefit from the global labour market and the establishment of a working environment where all employees can use their full

potential. Businesses can support civil society initiatives in training employees in sending, transit and receiving countries thereby playing a role in countering 'brain drain' flows on the one hand and in realising the potential of those who have migrated on the other.

Many initiatives exist today to address the social role of the corporate sector, including the UN Global Compact and guidelines for business drafted by the UN Sub-Commission on the Promotion and Protection of Human Rights, the Organisation for Economic Cooperation and Development (OECD) and the ILO. The new creative partnerships between businesses, governments, NGOs and corporate sector organisations, some of which were inconceivable only a decade ago, are to be welcomed.

19. Leadership, Education and Information

Good refugee and migration policy in the future depends on positive public support, and on good research and information rather than on a defensive and fearful discourse.

In the present context refugees and migrants produce contradictory reactions: on the one hand anxiety, uncertainty, fear and the undermining of identity; on the other hand: human solidarity, sympathy, compassion and a welcome for the economic and cultural richness that refugees and migrants have always brought to their host country.

The public debate is too often fuelled by a lack of information, a negative role played by the media, deliberate misinformation and inadequate political leadership to address what is an entirely manageable issue.

Legal action against discrimination, racism and xenophobia is valuable but not in itself enough. Major responsibility lies on the shoulders of political, religious and business leaders to create a climate of understanding, to challenge disinformation and to demonstrate the value of international cooperation on this issue. The leadership role of the media is of exceptional importance in avoiding stereotyped representation and in contributing with other opinion formers to an atmosphere of welcome and acceptance of refugees and migrants. Positive educational strategies can inform younger people as to the positive benefits of migration, particularly if young people from different cultures and ethnic groups can join in activities to enhance cross-cultural understanding and inter-ethnic dialogue and action.

20. Implementation of Legal Instruments

Since the period of the 1948 UN Universal Declaration of Human Rights there has been extraordinary progress on the international level in codifying what the international community agrees are human rights and humanitarian values. Through it the international community has at its disposal an immense body of law to govern the treatment of forcibly displaced people, asylum seekers and migrants throughout the world. The aspiration for the 21st century is the full and universal implementation of internationally agreed Conventions and respect for them.

The key international human rights instruments are: the 1949 Convention concerning Migration for Employment, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol relating to the Status of Refugees, the International Bill of Rights (comprising the 1948 UN Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights and the 1966 International Covenant on Economic, Social and Cultural Rights), the 1965 Convention on the Elimination of All Forms of Racial Discrimination, the 1975 Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of opportunity and Treatment of Migrant Workers (ILO), the Four Geneva Conventions of 1949 and the two Additional Protocols of 1977 thereto, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, the 1984 Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, the 1989 Convention on the Rights of the Child, the 1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and, in addition and related, the

1999 Anti-trafficking Treaty and the 2000 UN Convention against Trans-national Organised Crime with its supplementing Protocols on Trafficking and Smuggling.

The key regional human rights instruments are: the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa, the 1981 African Charter on Human and Peoples' Rights, the 1999 Bangkok Declaration on Irregular Migration, the 1950 European Convention on the Protection of Human Rights and Fundamental Freedoms, the 1990 Dublin Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities, the 1984 Cartagena Declaration on Refugees and the American Convention on Human Rights of 1969. In addition: in 1996, the Asian-African Legal Consultative Committee (AALCC) adopted non-binding principles on refugees. It largely takes the definition of the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, but it also talks about asylum and provides for temporary refuge. The principles were expanded to cover responsibility sharing. They are now being re-discussed in the Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants (APC). It started in 1996 and deals not only with refugees, but also with irregular migration; in the Middle East, where there is a huge caseload of longstanding displaced persons, there is the Arab Charter of Human Rights, although this is not yet in force.

The above mentioned instruments are accompanied by international guidelines and principles, which are, among many others, the 1993 Vienna Declaration, the UNHCR Executive Committee Conclusions, the UN Standard Minimum Rules of Detention and the 1987 Constitution of the IOM.

Implementation has two elements: firstly, ratification of existing regional and international instruments (and, when necessary, incorporating them into national systems) and secondly, monitoring States' fulfilment of their obligations. This includes the monitoring of States' obligations to the 1951 Convention relating to the Status of Refugees (and its 1967 Protocol), in terms of Article 35 of that Convention.

Implementation of national and international laws depends not only on formal law enforcement mechanisms, such as the police, judiciary, military and immigration officials, but also on a vigilant public and especially civil society organisations.

Full and universal implementation will inevitably require a joint international effort to make available adequate resources and expertise to assist countries in achieving their Convention obligations.

Concerning trade law and migration, the World Trade Organisation (WTO) and its General Agreement on Trade Services (GATS) are of particular relevance. The GATS, which forms the Treaty basis for the WTO, contains an Annex on 'movement of natural persons' which deals with an individual's right to stay temporarily in another country for the purpose of providing services, not for permanent employment. With trade liberalisation, such temporary movement of professionals is increasing and is followed closely by many States affected by migration.

21. Institutional Arrangements

Many of the institutional arrangements developed in the 20th century to manage refugee and migration issues are showing their age, and much diplomatic time and effort is spent in trying to co-ordinate intergovernmental bodies including the relevant agencies of the UN. A review and updating of these arrangements is overdue.

The high profile failures of the international community to deal with critical and humanitarian issues are a cause of concern in themselves and serve to undermine the credibility particularly of the UN system. We raise this issue because of our commitment to the long term viability and development of the UN system in association with governmental and civil society institutions. Raising this issue also implies the inescapable obligation to provide financial and human resources to carry out the job the international community asks the UN to perform.

The totality of multilateral frameworks including the political organs of the United Nations has to be utilised to address the root causes and consequences of all forms of population movements. As key players in this issue, many intergovernmental organisations are involved with the refugee and migration issue in one form or another. These include the Office of the UNHCR, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Children's Fund (UNICEF), the ILO, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and, outside the UN system, the International Committee of the Red Cross (ICRC) and the IOM.

Not all refugee and migration phenomena are adequately covered by existing institutional arrangements and some institutions currently play overlapping roles. The absence of clearly defined arrangements for IDPs is particularly disturbing. Greater cooperation and coordination promote more efficient use of resources and a more coherent approach.